UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

APR - 1 1996

MEMORANDUM FOR: F/CM2 - George H. Darcy

FROM: F/CM1 - Peter H. Fricke

SUBJECT: Amendment 33, BSAI Groundfish FMP, and Amendment 37, GOA Groundfish FMP

As requested, I have reviewed the subject amendments.

Information provided in the "Description of the Fishery" and the "Regulatory Impact Review" sections of the amendments is not sufficient to ascertain what the possible social impacts of the proposed actions would be.

The removal of at-sea processing rights for 38 sablefish-freezer vessels and 33 halibut-freezer vessels appears to be a major step, probably not fully mitigated by providing these vessels with the ability to process (freeze) non-IFQ species.

I am unable to comment on the social impacts of this proposed action without further information.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

MAR 18 1996

MEMORANDUM FOR: Distribution

FROM: Donald J. Leedy for George H. Darcy
Chief, Plans and Regulations Division

SUBJECT: Amendment 33 of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 37 of the Fishery Management Plan for Groundfish of the Gulf of Alaska

Attached is a copy of the subject amendments and the associated documents prepared by the North Pacific Fishery Management Council for review under the Magnuson Fishery Conservation and Management Act.

These amendments propose to enable persons to fully utilize the fishery resources in and off of Alaska by allowing persons using IFQ resulting from sablefish quota share (QS) assigned to specified vessel categories to process non-IFQ species. Amendments 33 and 37 would allow limited processing of non-IFQ species by persons using IFQ resulting from sablefish QS assigned to specified vessel categories. The ability to process non-IFQ species would not extend to persons using IFQ resulting from halibut QS assigned to certain vessel categories.

Please provide your comments (including "no comments") by April 25, 1996. If you have any questions, please call Bill Bellows at 301-713-2344.

Attachment

*Distribution

F/CM	-	Surdi	F/PR2	-	Eagle, Cornish
F/CM1	-	Fricke	F/HP1	-	Burgess
F/CM2	-	Darcy	F/RE1	-	Holliday
Fx2	-	Matlock	OP/SP	-	Wieting
F/EN	-	McKinney	N/ORM3	-	Lewsey
GCF	-	Gleaves	GC	-	Johnson
GCEL	-	Kuruc	OGC	-	Cohen
Fx3	-	Swartz			

REVISIONS TO THE FISHERY MANAGEMENT PLANS (FMP) PURSUANT TO AMENDMENT 33 TO THE BERING SEA/ALEUTIAN ISLANDS AREA (BSAI) FMP AND AMENDMENT 37 TO THE GULF OF ALASKA (GOA) FMP:

1. Revise paragraph 3 of BSAI FMP § 14.4.7.1.5 and GOA FMP § 4.4.1.1.5 as follows:

Use and Ownership Provisions

(3) Sablefish IFQ resulting from quota share assigned to vessel categories B and C may be used on a vessel with processing capacity as long as processed sablefish or halibut is not on the vessel during that same trip. Further, non-IFQ species may be processed on a vessel using sablefish IFQ resulting from quota share assigned to vessel categories B and C.

DRAFT FOR SECRETARIAL REVIEW

ENVIRONMENTAL ASSESSMENT

AND

REGULATORY IMPACT REVIEW

FOR

FISHERY PLAN AMENDMENTS

TO

PROHIBIT USE OF HALIBUT CATCHER VESSEL QUOTA SHARE

AND

ALLOW FREEZING OF NON-IFQ SPECIES ON FREEZER VESSELS

Bering Sea / Aleutian Islands Plan Amendment 33

and

Gulf of Alaska Plan Amendment 37

Prepared by

Staff of the North Pacific Fishery Management Council

March 8, 1996

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EXECUTIVE SUMMARY

This amendment addresses two related issues of the halibut and sablefish Individual Transferable Quota (IFQ) programs in the Bering Sea/Aleutian Islands and Gulf of Alaska. This document analyzes the environmental, economic, and social impacts of the status quo (Halibut Catcher Vessel Quota Share, Alternative 1 and Freezing of Non-IFQ Species, Alternative 1) and the proposed management actions for modifying the halibut and sablefish IFQ programs by prohibiting the use of halibut catcher vessel QS on freezer vessels (Halibut Catcher Vessel Quota Share, Alternative 2) and allowing the freezing of non-IFQ species, such as Pacific cod and rockfish, while harvesting sablefish catcher vessel QS on a freezer vessel (Freezing of Non-IFQ Species, Alternative 2).

The first problem identified by the North Pacific Fishery Management Council (Council) is the use of halibut catcher vessel QS on freezer/longline vessels (status quo). When the provision to allow the use of catcher vessel QS on freezer vessels was acted upon, the Council was on record to exclude the use of halibut catcher vessel QS on freezer vessels. The regulations implementing this part of the IFQ program, however, did not reflect the Council's intent for this exclusion.

Halibut Catcher Vessel Quota Share, Alternative 2 would prohibit the use of halibut catcher vessel QS on freezer/longline vessels. The Council prefers to optimize the small boat sector of the fleet by limiting the use of halibut catcher vessel QS to the catcher vessel fleet and not allow their use on freezer/longline vessels. A regulatory amendment is needed to make this change to the IFQ program.

The second problem addresses regulatory discards and lost revenue from the current prohibition on freezing non-IFQ species caught along with sablefish catcher vessel QS harvested on freezer/longline vessels (status quo). The Council's intent in allowing the use of catcher vessel QS on freezer vessels was to increase the fishing opportunities of IFQs held by crew members. Unanticipated waste of non-IFQ species caught incidentally to sablefish resulted from this allowance.

Freezing of Non-IFQ Species, Alternative 2 would require a plan amendment and would allow the processing of this bycatch when harvested along with sablefish catcher vessel QS on freezer/longline vessels. Since a typical sablefish longline trip exceeds the time needed to bring a high quality product to market, much of the non-IFQ bycatch is discarded. This management alternative would not allow the concurrent freezing of sablefish.

1.0 INTRODUCTION

This document is the draft Environmental Assessment/Regulatory Impact Review/IRFA for Amendment 33 to the Bering Sea and Aleutian Islands (BSAI) FMP and Amendment 37 for the Gulf of Alaska (GOA) FMP. It addresses the use of halibut catcher vessel quota share on freezer vessels and the freezing of non-IFQ species such as rockfish and Pacific cod, when sablefish catcher vessel quota shares are used on freezer vessels.

The groundfish fisheries in the Exclusive Economic Zone (EEZ) (3 to 200 miles offshore) of the Gulf of Alaska, Bering Sea, and Aleutian Islands are managed under the Fishery Management Plan (FMP) for the Groundfish Fisheries of the GOA and the FMP for the Groundfish Fisheries of the BSAI. Both FMPs were developed by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The GOA FMP was approved by the Secretary of Commerce and became effective in 1978; the BSAI FMP became effective in 1982.

Actions taken to amend FMPs or implement amendments to regulations governing the groundfish fisheries must meet the requirements of Federal laws and regulations. Among the most important of these are the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), Executive Order (E.O.) 12866, and the Regulatory Flexibility Act (RFA).

NEPA, E. O. 12866, and the RFA require a description of the purpose of and need for the proposed action as well as a description of alternative actions which may address the problem. This information is included in Section 1 of this document. Section 2 contains information on the biological and environmental impacts of the alternatives as required by NEPA. Impacts on endangered species and marine mammals are also addressed in this section. Section 3 contains a Regulatory Impact Review (RIR) which addresses the requirements of both E.O. 12866 and the RFA that economic impacts of the alternatives be considered. Section 4 assesses those affected by bearing the direct or indirect costs of regulations pursuant to the Regulatory Flexibility Act.

1.1 MANAGEMENT BACKGROUND

Current regulations implementing the halibut and sablefish IFQ fisheries state that, "Catcher vessel IFQ may be used on a freezer vessel, provided no frozen or otherwise processed fish products are on board at any time during a fishing trip on which catcher vessel IFQ is being used. A catcher vessel may not land any IFQ species as frozen or otherwise frozen product. Processing of fish on the same vessel that harvested those fish using catcher vessel QS is prohibited" [Section 676.22(i)(3)].

One management action (Halibut Catcher Vessel QS on Freezer/Longline Vessels) addresses the use of halibut catcher vessel QS on board a freezer longline vessel. In December 1991, the Council added a provision to the IFQ program to allow sablefish catcher boat shares to be utilized on a vessel with freezer capacity as long as no frozen product of any species is on board the vessel while those shares are being utilized. However, sablefish freezer shares may not be utilized at the same time as sablefish catcher vessel shares. The Council's original intention is clearly stated in the Final SEIS/EIS for the Individual Fishing Quota Management Alternative for Fixed Gear Sablefish and Halibut Fisheries [September 15, 1992] under Characteristics of the IFQ Program, "Sablefish catcher boat IFQs may be utilized on a vessel with freezer capacity as long as no frozen product of any species is on board the vessel while those catcher boat IFQs are being utilized. Further, sablefish freezer boat and catcher boat IFQs may not be utilized at the same time on a vessel."

The Council reviewed the proposed regulations for the IFQ program at their December 1993 meeting. Briefing material prepared for the meeting states, "The Council's motion in approving the IFQ program contained a provision to allow **sablefish** IFQs in the catcher vessel category to be used on a freezer/longliner, as long as no processed product was on board the vessel during the same trip in which the catcher vessel IFQs were used. The

Council's intent was not to extend this same option for **halibut** IFQs because they did not want to allow the potential for large amounts of the overall available quota to be taken on freezer vessels. The Proposed and Final Rules will allow for halibut IFQ (as well as sablefish) to be utilized on freezer vessels acting as catcher vessels. (page 59409, Section 676.22 (1)(3))" [original emphasis]. The Council passed a motion to reconfirm the Council's original intent by deleting the provision allowing halibut QS in the catcher vessel category from being utilized on freezer longliners. This amendment is a result of that action.

The Council wished to optimize the small boat sector of the fleet by limiting the use of halibut catcher vessel QS to the catcher vessel fleet and not allow their use on freezer/longline vessels. This approach is offset, however, by the FMPs' stated objective to manage the groundfish fisheries to minimize waste and discards, since any halibut caught while fishing sablefish catcher vessel QS on freezer/longline vessels must be discarded even if the operator owns halibut catcher vessel QS. This change requires a regulatory amendment.

The second management action (Freezing of Non-IFQ Species) addresses the Council's principal management goal of maximizing positive economic benefits in the groundfish fisheries. Freezing of non-IFQ species, including, but not limited to, Pacific cod and rockfish, produces the best market return as product quality of those species significantly degrades over the course of a sablefish trip (approximately seven days).

At their December 1993 and April 1994 meetings, the Council considered allowing the use of catcher vessel QS on freezer vessels of the same size category, along with lifting the prohibition of having frozen or processed fish products and IFQ species on board a freezer/longline vessel simultaneously. In June 1994, the Council initiated an analysis of these alternatives, resulting in this plan amendment.

1.2 PURPOSE AND NEED FOR ACTION

The two actions (Halibut Catcher Vessel QS and Freezing of Non-IFQ Species) presented in this document are independent management issues. The first proposed management action would prohibit the use of halibut catcher vessel QS on freezer/longline vessels. This requires a regulatory amendment and is included in this document since the two actions address some of the same problems in the fishery. The second action would allow freezing of non-IFQ species, such as rockfish and Pacific cod, when sablefish catcher vessel IFQ is used on freezer vessels. A plan amendment is necessary for this change.

In its deliberations of the design of the IFQ fisheries, the Council chose to set up vessel categories to ensure that the fixed gear fishing fleet under the IFQ program remains relatively diversified and similar to the fleet structure under open access. This was attained by prohibiting the transfer of QS between vessel categories. The Council, in recommending this measure, was responding to substantial public concern that harvesting privileges would be transferred to owners of large vessels without such restrictions. The public was concerned that consolidation of QS in the hands of large vessel owners would potentially disenfranchise the small vessel fleet and cause social and economic damage to coastal communities in Alaska that rely, in part, on that fleet as a source of local revenues. Maintaining the social and cultural framework relevant to the fisheries, in large part represented by the small boat fisheries, was a primary goal of the Council from the beginning of discussions for designing the IFQ programs. NMFS noted, however, that vessel category restrictions could diminish theoretical gains in fleet efficiency under the IFQ program and could limit the flexibility of vessel owners in the commercial fishing business. Such potential economic losses, however, should be offset by social or other benefits.

The first proposed action would prohibit the use of halibut catcher vessel QS on freezer/longline vessels, and the potential for disenfranchising the small boat fleet by consolidating the use of catcher vessel quota on freezer/longline vessels. Current IFQ regulations allow the use of halibut and sablefish catcher vessel IFQ on a freezer vessel, providing no frozen or otherwise processed products are on board at any time during a fishing trip on which catcher vessel IFQ is being used. The reverse situation, using freezer vessel IFQ on a catcher vessel is not allowed. The use of sablefish catcher vessel QS on freezer/longline vessels was intended to enhance fishing opportunities for IFQ crew members. The Council was unwilling to allow this same exception to the halibut IFQ

fishery due to the differing nature of that fishery, which is more oriented to small, independent operators. The Council assumed that most crew members who enter the IFQ fishery by purchasing QS, or choose to increase their IFQ holdings, would purchase catcher vessel QS since those QSs would be in greater supply and potentially less expensive than freezer vessel QS.

The Council is concerned that the use of halibut catcher vessel QS on freezer/longline vessels would afford the possibility that the fishery could be conducted by a small number of large vessels. The proposed restriction is in response to public concern expressed that consolidation of the current halibut fishing fleet could occur under the IFQ program with subsequent socio-economic consequences. It would prevent substantial pooling of halibut IFQ by a vessel owner and crew, and assure that the majority of the halibut catcher vessel QS continue to be harvested by smaller catcher vessels.

The second proposed action would allow the freezing of non-IFQ species when sablefish catcher vessel QS is on board a freezer/longline vessel. The Council does not believe that allowing freezing of non-IFQ species on board freezer/longline vessels fishing sablefish catcher vessel shares would significantly deprive shore-based plants the opportunity to process fish, since this is product that would otherwise be discarded at sea under the status quo. The freezing of IFQ sablefish caught with catcher vessel QS on a freezer/longline vessel would not be allowed.

1.3 MANAGEMENT ACTION ALTERNATIVES

Halibut Catcher Vessel QS

Alternative 1 (status quo)	Allow the use of halibut and sablefish catcher vessel quota share on freezer vessels.
Alternative 2	Do not allow the use of halibut catcher vessel quota share on freezer vessels.

Freezing of Non-IFQ Species

Alternative 1 (status quo)	Do not allow the freezing of non-IFQ species when catcher vessel QS is used on freezer vessels.
Alternative 2	Allow the freezing of non-IFQ species when catcher vessel QS is used on freezer vessels.

2.0 NEPA REQUIREMENTS: ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in significant impact on the human environment. The environmental analysis in the EA provides the basis for this determination and must analyze the intensity or severity of the impact of an action and the significance of an action with respect to society as a whole, the affected region and interests, and the locality. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact statement (EIS) must be prepared for major Federal actions significantly affecting the human environment.

An EA must include a brief discussion of the need for the proposal, the alternatives considered, the environmental impacts of the proposed action and the alternatives, and a list of document preparers. The purpose and alternatives were discussed in Sections 1.1 and 1.2, and the list of preparers is in Section 6. Section 2 contains

the discussion of the environmental impacts of the alternatives including impacts on threatened and endangered species and marine mammals.

2.1 ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES

The environmental impacts generally associated with fishery management actions are effects resulting from (1) harvest of fish stocks which may result in changes in food availability to predators and scavengers, changes in the population structure of target fish stocks, and changes in the marine ecosystem community structure; (2) changes in the physical and biological structure of the marine environment as a result of fishing practices, e.g., effects of gear use and fish processing discards; and (3) entanglement/entrapment of non-target organisms in active or inactive fishing gear.

A summary of the effects of the annual groundfish total allowable catch amounts on the biological environment and associated impacts on marine mammals, seabirds, and other threatened or endangered species are discussed in the final environmental assessment for the annual groundfish total allowable catch specifications.

The environmental effects of the status quo alternative were analyzed in a series of environmental documents produced for the Pacific halibut and sablefish IFQ program.[1] Alternative 2 (the proposed action) would not result in a significant change in the original environmental assessment. Alternative 2 would allow the freezing of non-IFQ species when harvested with sablefish catcher vessel QS on board a freezer/longline vessel. The difference between the status quo and Alternative 2 is that the latter will decrease regulatory discards of non-IFQ species caught simultaneously with sablefish catcher vessel QS.

2.2 IMPACTS ON ENDANGERED, THREATENED OR CANDIDATE SPECIES

Endangered and threatened species under the ESA that may be present in the GOA and BSAI include:

Endangered

Northern right whale	Balaena glacialis
Sei whale	Balaenoptera borealis
Blue whale	Balaenoptera musculus
Fin whale	Baleanoptera physalus
Humpback whale	Megaptera novaeangliae
Sperm whale	Physeter macrocephalus
Snake River sockeye salmon	Oncorhynchus nerka
Short-tailed albatross	Diomedea albatrus

Threatened

Steller sea lion	Eumetopias jubatus
Snake R. spring and summer chinook salmon	Oncorhynchus tshawytscha
Snake R. fall chinook salmon	Oncorhynchus tshawytscha
Spectacled eider	Somateria fischeri

[1](1) Draft SEIS/RIR/IRFA regarding sablefish [November 16, 1989]; (2) revised supplement to the Draft SEIS/RIR/IRFA [May 13, 1991]; (3) Draft SEIS/RIR/IRFA regarding halibut [July 19, 1991]; (4) Draft SEIS/RIR/IRFA regarding sablefish and halibut [March 27, 1992]; and (5) Final SEIS/EIS/FRFA [September 15, 1992].

The status of the ESA section 7 consultations required to assess the impact of the groundfish fisheries on endangered, threatened, or candidate species is updated annually (NMFS, 1995). None of the alternatives are expected to have a significant impact on endangered, threatened, or candidate species.

2.3 IMPACTS ON MARINE MAMMALS

Marine mammals not listed under the Endangered Species Act that may be present in the GOA and BSAI include cetaceans, [minke whale (Balaenoptera acutorostrata), killer whale (Orcinus orca), Dall's porpoise (Phocoenoides dalli), harbor porpoise (Phocoena phocoena), Pacific white-sided dolphin (Lagenorhynchus obliquidens), and the beaked whales (e.g., Berardius bairdii and Mesoplodon spp.)] as well as pinnipeds [northern fur seals (Callorhinus ursinus), and Pacific harbor seals (Phoca vitulina)] and the sea otter (Enhydra lutris). None of the alternatives are expected to have a significant impact on marine mammals.

2.4 COASTAL ZONE MANAGEMENT ACT

Implementation of the preferred alternative would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Management Program within the meaning of Section 30(c)(1) of the Coastal Zone Management Act of 1972 and its implementing regulations.

2.5 FINDING OF NO SIGNIFICANT IMPACT

None of the alternatives are likely to significantly affect the quality of the human environment, and the preparation of an environmental impact statement for the proposed action is not required by Section 102(2)(C) of the National Environmental Policy Act or its implementing regulations.

_____ _____

DATE

3.0 REGULATORY IMPACT REVIEW: SOCIAL AND ECONOMIC IMPACTS OF THE ALTERNATIVES

This section provides information about the economic and socioeconomic impacts of the alternatives including identification of the individuals or groups that may be affected by the action, the nature of these impacts, quantifying the economic impacts if possible, and discussion of the trade-offs between qualitative and quantitative benefits and costs.

A Regulatory Impact Review (RIR) is required by NMFS for all regulatory actions or for significant Department of Commerce or NOAA policy changes that are of significant public interest. The RIR: (1) provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; (2) provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems; and (3) ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost effective way.

Executive Order 12866, "Regulatory Planning and Review," was signed on September 30, 1993 and established guidelines for promulgating new regulations and reviewing existing regulations. While the order covers a variety of regulatory policy considerations, the benefits and costs of regulatory actions are a prominent concern. Section 1 of the order describes the regulatory philosophy and principles that are to guide agency development of regulations. The regulatory philosophy stresses that, in deciding whether and how to regulate, agencies should

assess all costs and benefits of all regulatory alternatives. In choosing among regulatory approaches, the philosophy is to choose those approaches (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity) that maximize net benefit to the nation.

The regulatory principles in E.O. 12866 emphasize careful identification of the problem to be addressed. The agency is to identify and assess alternatives to direct regulation, including economic incentives, such as user fees or marketable permits, to encourage the desired behavior. When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. Each agency shall assess both the costs and benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and the consequences of, the intended regulation.

The preparation of an RIR is required for all regulatory actions that either implement a new FMP or significantly amend an existing FMP. The RIR is part of the process of preparing and reviewing FMPs and provides a comprehensive review of the changes in net economic benefits to society associated with proposed regulatory actions. The analysis also provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem. The purpose of the analysis is to ensure that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR addresses many of the items in the regulatory philosophy and principles of E.O. 12866.

Executive Order 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to:

> (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
>
> (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
>
> (3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
>
> (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

A regulatory program is "economically significant" if it is likely to result in the effects described in item (1) above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be "economically significant."

3.1 IDENTIFICATION OF THE ISSUES TO BE RESOLVED BY THE PROPOSED ACTIONS

As explained in detail in the Introduction, the current Pacific halibut and sablefish IFQ program currently allows the use of catcher vessel QS on freezer/longline vessels and restricts the freezing of non-IFQ species on freezer/longline vessels when IFQ species are on board at the same time. The Council has decided to prohibit the use of Pacific halibut catcher vessel QS on freezer/longline vessels and allow the freezing of non-IFQ species when sablefish catcher vessel QS is also on board.

Modifying these restrictions may decrease the regulatory and economic efficiency of using catcher vessel QS and unburden the individual from the restriction on freezing non-IFQ species when sablefish catcher vessel QS is used on freezer/longline vessels.

3.2 IDENTIFICATION OF THE INDIVIDUALS OR GROUPS THAT MAY BE AFFECTED BY THE PROPOSED ACTION

An estimation of individuals or groups of individuals who may be affected by either or both management actions under the IFQ program cannot be made based on historical catches in the halibut and sablefish fisheries under open access. The best estimate of an upper limit would be the total number of fishermen issued halibut catcher vessel quota shares (4,620) for the Halibut Catcher Vessel QS action and sablefish catcher vessel quota shares (989) and sablefish freezer vessel QS (38) for Freezing of Non-IFQ Species action (Table 1). The likely number of affected individuals under the freezing of non-IFQ species action, however, is less since not all eligible fishermen would choose to fish their catcher vessel QS on a freezer/longline vessel.

TABLE 1 Total number of individuals receiving halibut and sablefish QS by vessel category.

Category	Halibut QS Recipients	Category	Sablefish QS Recipients
freezer	33	freezer	38
catcher > 60 ft	297	catcher > 60 ft	188
catcher 35 - 60 ft	2,095	catcher ≤ 60 ft	763
catcher <35 ft	2,195		
TOTALS	**4,620**		**989**

3.3 MANAGEMENT ACTION ALTERNATIVES

Halibut Catcher Vessel QS

Alternative 1 (status quo) Allow the use of halibut and sablefish catcher vessel quota share on freezer vessels.

Under Alternative 1, no action would be taken. The status quo would remain in effect, whereby both halibut and sablefish catcher vessel QS may be used on freezer/longline vessels.

Alternative 2 Do not allow the use of halibut catcher vessel quota share on freezer vessels.

Alternative 2 would prohibit the use of halibut catcher vessel QS on freezer/longline vessels. The Council's original intention was to exclude the use of halibut catcher vessel QS on freezer/longliners, but the resulting IFQ regulations did not reflect this intention. This regulatory amendment aims to redress this situation.

The underlying purpose of specifying vessel categories is to maintain a diverse fleet in which all segments continue to exist and social structures associated with them are maintained. The Council expressed concern that if all of the IFQs in an area were available to vessels of any vessel class, the owners of large vessels or freezer

boats would acquire most of them. There was also concern that removing the smaller vessels, which are more closely tied to local communities and provide an opportunity for more people to participate in the fishery, would have detrimental social and economic impacts both on many areas and on individuals unable to invest in larger vessels.

Vessel category restrictions limit the transferability of IFQs and QSs and prevent their transfer to those who may be willing to pay the most for them. To the extent that willingness to pay reflects the value of alternative uses, the benefits derived from the halibut and sablefish fixed gear quotas would be lower. Establishing the percentage of a fixed gear TAC that can be taken by each vessel class could severely limit the ability of the fleet to respond to changing fishery and economic conditions. The comparative advantage of a particular class of vessels may wax and wane, depending upon changes in input costs, product prices, the availability of halibut or sablefish, and the profitability of alternative fisheries. In this context, if it is cost-effective owners of freezer/longline vessels would hire crew members who possess sablefish catcher vessel QS to harvest those shares on their vessels.

Tables 2-4 list the retained, discarded, and total landings of species harvested with longline gear in 1992 while targeting BSAI sablefish, BSAI Pacific cod, and GOA Pacific cod. Estimated landings from both weekly processor reports and observer data are presented. A minimal amount of halibut was reported by both catcher vessels and catcher processors from either reporting vehicle in the BSAI. However, weekly reports in the Gulf of Alaska indicate no halibut were caught when targeting Pacific cod, while observer data indicate that more than 3,700 mt of halibut were caught on catcher vessels (Table 4). While 1992 landing reports under open access fishing do not accurately reflect fishing practices under the IFQ program, it is the best available information on which to make projections of economic impacts on the fisheries. Some portion of the 3,700 mt of halibut caught by catcher vessels that would translate into halibut catcher vessel QS owned by crew members who choose to fish those shares on freezer/longline vessels would be foregone under the proposed action, and would be discarded.

Freezing of Non-IFQ Species

Alternative 1 (status quo)	Do not allow the freezing of non-IFQ species when catcher vessel QS is used on freezer vessels.

Under Alternative 1, no action would be taken. The status quo would remain in effect, whereby non-IFQ species may not be frozen or processed when harvested with sablefish catcher vessel QS on freezer/longline vessels.

Alternative 2	Allow the freezing of non-IFQ species when catcher vessel QS is used on freezer vessels.

Alternative 2 would allow the freezing of non-IFQ species when harvested with sablefish catcher vessel QS on freezer/longline vessels. The Council's decision in 1992 to allow the use of sablefish catcher vessel QS on freezer vessels precipitated the proposed action to reduce waste and discards of bycatch species, since unfrozen IFQ species would be discarded at sea under the status quo. Freezing on non-IFQ species would also optimize the ex-vessel value of those landings by producing a more valuable seafood product.

Thirty-eight sablefish QS recipients in the freezer boat category are eligible to use catcher vessel QS from the 188 QS holders in the > 60 ft vessel class and 763 QS holders in the ≤ 60 ft vessel class. While non-IFQ species could be frozen onboard, the freezing of IFQ sablefish caught with catcher vessel QS on a freezer/longline vessel would continue to be prohibited.

Table 2. Species Catch Composition (tons) When Targeting Sablefish in the Bering Sea/Aleutian Islands Using Longline Gear, 1992

Species Harvested	Reported Catch (Weekly Processor Reports)						Estimated Catch Based on Observed Bycatch Rates					
	Catcher Processors			Shoreside Deliveries			Catcher Vessel			Catcher Processors		
	Retained	Total	Discarded	Retained	Total	Discarded	Retained	Total	Discarded	Retained	Total	Discarded
Atka M.	0.00	313.83	100%	0.00	0.52	100%	0.00	0.00		0.00	0.00	
A'tooth	2.73	406.69	99%	0.00	225.56	100%	115.68	115.87	0%	101.51	102.50	1%
Turbot	87.85	91.55	4%	84.83	85.85	1%	398.52	399.20	0%	460.72	465.20	1%
O. Rock	95.40	195.70	51%	74.58	83.97	11%	95.43	95.59	0%	81.83	82.63	1%
O. Ground	0.97	343.25	100%	0.00	175.37	100%	160.49	160.77	0%	89.36	90.23	1%
Rocksole	0.00	296.53	100%	0.00	262.85	100%	0.00	0.00		0.00	0.00	
O. Flat	0.09	708.04	100%	0.00	211.79	100%	0.00	0.00		0.08	0.08	0%
P. Cod	19.34	244.43	92%	20.52	101.47	80%	0.25	0.25	0%	18.16	18.33	1%
Halibut	0.00	0.00		0.00	0.00		60.35	60.45	0%	231.52	233.78	1%
Pollock	0.00	877.55	100%	0.00	294.05	100%	0.00	0.00		0.01	0.01	0%
POP	0.00	66.47	100%	0.33	21.23	98%	0.00	0.00		0.00	0.00	
Sablefish	962.29	971.65	1%	701.31	702.60	0%	757.75	759.04	0%	962.29	971.65	1%
Salmon	0.00	0.00		0.00	0.00		0.00	0.00		0.00	0.00	
Squid	0.00	9.08	100%	0.00	0.06	100%	0.00	0.00		0.00	0.00	
SR/Rougheye	8.93	14.69	39%	0.20	4.22	95%	16.47	16.50	0%	23.88	24.11	99%
SH/Northern	0.00	0.00		0.00	0.00		0.00	0.00		0.00	0.00	
Tanner Crab	0.00	0.00		0.00	0.00		0.00	0.00		0.83	0.84	99%
King Crab	0.00	0.00		0.00	0.00		0.03	0.30	10%	1.01	1.02	99%
Y. Sole	0.00	872.81	100%	0.00	403.79	100%	0.00	0.00		0.00	0.00	

Table 3. Species Catch Composition (tons) when Targeting Pacific Cod in the Bering Sea/Aleutian Islands Using Longline Gear, 1992

Species Harvested	Reported Catch (Weekly Processor Reports)						Estimated Catch Based on Observed Bycatch Rates					
	Catcher Processors			Shoreside Deliveries			Catcher Vessel			Catcher Processors		
	Retained	Total	Discarded	Retained	Total	Discarded	Retained	Total	Discarded	Retained	Total	Discarded
Atka M.	18.84	1,505.69	99%	0.00	0.52	100%	0.42	0.50	16%	124.31	126.77	2%
A'tooth	50.93	4,130.99	99%	0.38	184.39	100%	11.98	14.43	17%	2,631.76	2,683.75	2%
Turbot	86.34	221.79	61%	2.12	29.13	93%	3.19	3.84	17%	462.49	471.63	2%
O. Rock	132.07	844.63	84%	5.34	10.58	50%	3.10	3.73	17%	99.23	101.19	2%
O. Ground	720.11	4,445.48	84%	0.00	233.96	100%	73.67	88.73	17%	18,788.47	19,159.61	2%
Rocksole	8.58	3,762.01	100%	0.00	206.70	100%	0.69	0.83	17%	53.31	54.36	2%
O. Flat	11.74	4,765.84	100%	0.00	450.19	100%	1.40	1.69	17%	412.07	420.21	2%
P. Cod	88,998.03	90,756.08	2%	535.98	647.90	17%	550.16	662.61	17%	88,998.03	90,756.08	2%
Halibut	0.00	0.00		0.00	0.00		145.81	175.61	17%	10,230.12	10,432.21	2%
Pollock	70.93	10,183.60	99%	0.00	864.12	100%	11.39	13.72	17%	5,731.34	5,844.56	2%
POP	5.34	348.45	98%	0.72	7.34	90%	0.00	0.00		91.97	93.78	2%
Sablefish	112.02	229.01	51%	31.03	35.96	14%	1.64	1.98	17%	42.28	43.12	2%
Salmon	0.00	0.00		0.00	5.00	100%	0.00	0.00		0.72	0.74	3%
Squid	0.00	33.19	100%	0.00	1.48	100%	0.00	0.00		0.02	0.02	0%
SR/Rougheye	183.99	274.42	33%	0.78	4.17	81%	5.80	6.99	17%	521.44	531.74	2%
SH/Northern	0.00	0.00		0.00	0.00		0.35	0.42	17%	43.55	44.41	2%
Tanner Crab	0.00	0.00		0.00	0.00		0.92	1.11	17%	118.94	121.29	2%
King Crab	0.00	0.00		0.00	0.00		0.02	0.02	0%	7.35	7.50	2%
Y. Sole	0.36	5,515.35	100%	0.00	914.07	100%	0.06	0.08	25%	101.25	103.25	2%

Table 4. Species Catch Composition (tons) When Targeting Pacific Cod in the Gulf of Alaska Using Longline Gear, 1992

Species Harvested	Reported Catch (Weekly Processor Reports)						Estimated Catch Based on Observed Bycatch Rates					
	Catcher Processors			Shoreside Deliveries			Catcher Vessel			Catcher Processors		
	Retained	Total	Discarded	Retained	Total	Discarded	Retained	Total	Discarded	Retained	Total	Discarded
A'tooth	0.31	665.74	100%	0.27	598.21	100%	0.00	0.35	100%	0.02	36.84	100%
Deep Flats	1.86	53.17	97%	0.05	33.84	100%	13.04	14.64	11%	3.98	4.19	5%
D. Shelf Rock	9.22	9.22	0%	37.84	38.32	1%	28.02	31.47	11%	14.77	15.55	5%
Flathead Sole	0.00	0.00		0.00	0.00		9.92	11.14	11%	2.80	2.95	5%
O. Rock	0.50	58.67	99%	6.18	47.24	87%	7.47	8.39	11%	11.02	11.59	5%
O. Ground	2.63	490.05	99%	5.03	1,133.44	100%	82.51	92.66	11%	77.58	81.64	5%
P. Cod	8,291.72	8,724.92	5%	5,682.85	6,350.09	11%	6,044.42	6,788.28	11%	8,291.72	8,724.92	5%
Halibut	0.00	0.00		0.00	0.00		1,884.25	2,116.13	11%	3,716.59	3,910.76	5%
P. Shelf Rock	0.05	0.31	84%	13.98	17.13	18%	6.94	7.80	11%	4.68	4.92	5%
Pollock	0.00	1,671.60	100%	9.12	3,950.85	100%	42.91	48.19	11%	34.45	36.25	5%
POP	0.00	25.66	100%	0.00	187.14	100%	0.01	0.01	0%	0.13	0.14	7%
Sablefish	30.05	31.11	3%	26.75	28.51	6%	145.15	163.02	11%	571.90	601.78	5%
Salmon	0.00	0.00		0.00	0.00		0.00	0.00		0.00	0.00	
Shallow Flats	0.00	1,032.73	100%	0.00	2,330.80	100%	5.53	6.21	11%	7.19	7.56	5%
SH/Rougheye	0.02	1.06	98%	5.74	34.60	83%	1.65	1.85	11%	9.82	10.33	5%
Tanner Crab	0.00	0.00		0.00	0.00		0.24	0.26	8%	0.09	0.10	10%
Thornyheads	0.36	0.36	0%	21.42	22.90	6%	0.00	0.00		0.00	0.00	
King Crab	0.00	0.00		0.00	0.00		0.00	0.00		0.01	0.01	0%

3.4 QUALITATIVE ANALYSIS OF THE EXPECTED BENEFITS AND COST OF THE PROPOSED ACTIONS

As explained above, the proposed action under Halibut Catcher Vessel QS would prohibit the use of halibut catcher vessel QS on freezer/longline vessels. This provision would maximize the number of small boat operators utilizing catcher vessel QS. Social and economic benefits of limiting the use of halibut catcher vessel QS to the small boat fleet by are unquantifiable, but expected to be great.

The expected benefits of allowing the freezing on non-IFQ species when harvested with sablefish catcher vessel QS are more evident. This provision would allow for enhancement of product quality and attendant increased ex-vessel price from freezing of non-IFQ species caught as bycatch to the sablefish longline fishery. Shore-based plants would not be deprived of the opportunity to process these fish since most of this bycatch would otherwise be discarded as sablefish longline trips generally exceed the period of marketability of unprocessed product. Tables 2 through 4 list the groundfish species caught in different target longline fisheries in the Bering Sea/Aleutian Islands and Gulf of Alaska in 1992. By weight, for each 100 mt of sablefish landed by catcher/processors in the BSAI longline fishery, approximately 48 mt of Greenland turbot, 9 mt of rockfish, 9 mt of groundfish, 2 mt of Pacific cod, and 2.5 mt of shortraker/rougheye were also landed (Table 2). Similar data is not available for the Gulf of Alaska due to the limited nature of the sablefish longline fishery. In 1994, ex-vessel prices averaged $1,100/mt for BSAI and $970/mt for GOA Greenland turbot, $1,650/mt for BSAI and $2,030/mt for GOA rockfish, $1,190/mt for BSAI and $4,500/mt for GOA groundfish, and $1,150/mt for BSAI and GOA Pacific cod (Kinoshita et al, 1994).

The preferred alternative allows freezing of non-IFQ species along with catcher vessel sablefish IFQ and a prohibition on freezing non-IFQ species along with catcher vessel halibut IFQ onboard at the same time. Under this scenario, a vessel operating as a freezer vessel would be required to discard halibut, unless that vessel has freezer category halibut IFQ to cover that bycatch (catcher vessel halibut IFQ cannot be used by this vessel). Estimated halibut bycatch in the BSAI sablefish longline fishery by catcher/processors totaled 234 mt in 1992 against a target sablefish catch of 972 mt (Table 2). Based on the 1992 rate, discarded halibut bycatch might be as high as 24% by weight of sablefish catcher vessel QS harvested by the freezer/longline fleet. The 17% mortality rate calculated by Williams (unpubl. report) for the BSAI sablefish hook and line fishery would be applied to the resulting halibut bycatch to determine halibut mortality under this alternative. Foregone halibut landings would be valued at an estimated ex-vessel price of $1.60 to 1.75/lb ($3,530 - $3,3860/mt) based on 1994 prices. However, all halibut catcher vessel QS is expected to be fully utilized by the catcher vessel fleet, resulting in no net economic loss to the industry as a whole.

3.5 ADMINISTRATIVE, ENFORCEMENT AND INFORMATION COSTS

No significant additional costs will be borne by the administrative agency from either of the proposed actions. The exclusion of halibut catcher vessel QS from use on freezer/longline vessels may affect administrative costs of monitoring halibut discards when sablefish catcher vessels were being used on freezer boats. The complexity of the regulatory changes required to exclude the use of halibut catcher vessel QS on freezer/longliner vessels and allow the freezing on non-IFQ species when sablefish catcher vessel QS is used on freezer/longline vessels are not expected to be significant.

No additional enforcement costs are expected from either of the proposed actions.

4.0 REGULATORY FLEXIBILITY ACT

The objective of the Regulatory Flexibility Act is to require consideration of the capacity of those affected by regulations to bear the direct and indirect costs of regulation. If an action will have a significant impact on a substantial number of small entities an Initial Regulatory Flexibility Analysis must be prepared to identify the need for the action, alternatives, potential costs and benefits of the action, the distribution of these impacts, and a determination of net benefits.

NMFS has defined all fish harvesting or hatchery businesses that are independently owned and operated, not dominant in their field of operation, with annual receipts not in excess of $2 million as small businesses. In addition, seafood processors with 500 employees or less, wholesale industry members with 100 members or less, not-for-profit enterprises, and government jurisdictions with a population of 50,000 or less are considered small entities. A "substantial number" of small entities would generally be 20% of the total universe of small entities affected by the regulation. A regulation would have a "significant impact" on these small entities if it resulted in a reduction in annual gross revenues by more than 5%, annual compliance costs that increased total costs of production by more than 5%, or compliance costs of small entities that are at least 10% higher than compliance costs as a percent of sales for large entities.

If an action is determined to affect a substantial number of small entities, the analysis must include:

(1) description and estimate of the number of small entities and total number of entities in a particular affected sector, and total number of small entities affected; and

(2) analysis of economic impact on small entities, including direct and indirect compliance costs, burden of completing paperwork, or recordkeeping requirements, effect on the competitive position of small entities, effect on the small entity's cashflow and liquidity, and ability of small entities to remain in the market.

4.1 ECONOMIC IMPACT ON SMALL ENTITIES

All owners of freezer/longline vessels participating in the Pacific halibut (33 vessels) and sablefish (38 vessels) IFQ fisheries, and up to 951 sablefish catcher vessel QS owners would be positively affected by the proposed management measure to freeze non-IFQ species when harvested along with sablefish catcher vessel QS on freezer/longline vessels. The 4,587 halibut catcher vessel owners who would not be able to freeze non-IFQ species (i.e., maintain status quo) would not be impacted by this action.

5.0 REFERENCES

Kinoshita, R. K., A. Greig, J. D. Hastie, and J. T. Terry. unpubl. Draft economic status of the groundfish fisheries off Alaska, 1994. NMFS, AFSC, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115-0070. 104 pp.

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6.0 LIST OF PREPARERS

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